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International Convention on
the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Portugal

1. The Committee considered the fifth to eighth periodic reports of Portugal (CERD/C/314/Add.1), at its 1311th and 1312th meetings (CERD/C/SR.1311 and 1312), held on 4 and 5 March 1999, and adopted, at its 1328th meeting (CERD/C/SR.1328), held on 17 March 1999, the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to resume its dialogue with the State party after a lapse of eight years. The Committee notes with appreciation that the report submitted by the State party is a comprehensive document which largely complies with the Committee's general guidelines. The Committee welcomes the frank and self-critical approach of the report, the constructive dialogue with the State party's delegation and the additional information in response to the questions raised by the members of the Committee, which reflect the serious commitment of the State party to implementing the provisions of the Convention.

B. Positive aspects

3. The efforts undertaken and the innovative measures adopted by the State party to combat racial discrimination are welcomed, as is the State party's willingness to recognize existing problems and to find appropriate solutions, both legislative and administrative. The Committee notes with appreciation that since the examination of the previous reports, a new Penal Code (1995) has been adopted which brings domestic legislation more into conformity with the Convention. It also notes with interest that the Portuguese Constitution was amended in 1997.

4. The Committee welcomes the information provided by the State party that the Convention is directly applicable in the Portuguese legal system and that it takes precedence over domestic legislation.

5. The Committee welcomes the enactment of Decree 296-A/95 of 17 November 1995 providing for the appointment of the High Commissioner for Immigration and Ethnic Minorities whose ultimate objective is to prevent xenophobia, intolerance and discrimination and to promote a dialogue with immigrants and ethnic communities. The initiatives taken by the High Commissioner in the sphere of training, education and information are appreciated.

6. The Committee notes with appreciation the State party's efforts to promote equal opportunity for Roma (Gypsies) and their better integration in society. The Committee notes, in particular, the establishment in 1996 of the Working Group for the Equality and Insertion of Gypsies, under the authority of the High Commissioner, and the existence of "Gypsy mediators" with the task of ensuring liaison between the Roma (Gypsy) community and the public and private sectors.

7. The Committee commends the State party's initiatives in 1992 and 1996 to regularize the situation of a large number of clandestine immigrants in order to allow them fully to enjoy their social, economic and cultural rights, particularly in regard to work, social services and access to housing.

8. With respect to article 7 of the Convention, the Committee welcomes the information given by the State party regarding its efforts to develop educational programmes for law enforcement officials, including human rights training in general and training concerning the provisions of the Convention in particular.

D. Principal subjects of concern

9. The Committee expresses its concern at manifestations of xenophobia and racial discrimination, including acts of violence directed against certain ethnic groups, particularly Blacks, Roma (Gypsies), immigrants and foreigners frequently perpetrated by skinheads, although the Committee acknowledges the efforts of the State party to combat such acts.

10. While noting that article 46, paragraph 4 of the Constitution of Portugal, as well as Law No. 64/78, prohibits racist organizations or organizations adhering to a fascist ideology, the Committee also expresses its concern that article 4 of the Convention is not fully complied with, since the protection thus provided for by law does not cover the wide variety of racist organizations that may exist or develop.

11. With regard to article 5 of the Convention, the report does not contain sufficient information to allow an evaluation of the practical implementation of the right to access to and equal treatment before the courts. The Committee expresses its apprehension concerning the de facto enjoyment of these rights by, in particular, Roma (Gypsies), Blacks, immigrants and foreigners.

E. Suggestions and recommendations

12. The Committee recommends that further measures be taken to harmonize domestic legislation with the provisions of the Convention. In this respect, it is recommended, in particular, that appropriate measures be taken to prohibit all organizations and groups, whether or not of fascist ideology, which promote racist ideas or objectives, in order to ensure that article 4 of the Convention is fully complied with.

13. It is also recommended that the State party continue and intensify its measures aimed at preventing and prosecuting any act or manifestation of racial discrimination or xenophobia, including acts of violence against certain ethnic groups, particularly Blacks, Roma (Gypsies), immigrants and foreigners.

14. The Committee suggests that further action be taken to ensure that the provisions of the Convention are more widely publicized, particularly among Roma (Gypsies), Blacks, immigrants and foreigners.

15. The Committee recommends that the State party in its next periodic report provide detailed and relevant information on the demographic composition of the Portuguese population, in accordance with paragraph 8 of the Committee's reporting guidelines.

16. The State party is invited to provide further information on the following issues: (a) complaints and court cases relating to racial discrimination; (b) the enjoyment in practice of the right to access to and equal treatment before the courts, in particular by Roma (Gypsies), Blacks, immigrants and foreigners; (c) activities undertaken by the High Commissioner for Immigration and Ethnic Minorities; (d) additional measures undertaken to combat manifestations of xenophobia and racial discrimination, including acts of violence directed against certain ethnic groups; and (e) the results of integration programmes established in connection with the regularization of the situation of clandestine immigrants in 1992 and 1996.

17. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of State Parties to the Convention.

18. It is noted that the State party has not yet made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the State party consider the possibility of making such a declaration.

19. The Committee requests that the State party give wide publicity to its report to the Committee, as well as to the present concluding observations.

20. The Committee recommends that the State party's next periodic report, due on 23 September 1999, be an updating report and that it address all the points raised in these concluding observations and during the consideration of the report.